



U.S. DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Pacific Islands Regional Office
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Mr. Edwin Reyes
Guam Coastal Management Program
Bureau of Statistics and Plans
P.O. Box 2950
Hagatna, Guam 96932

MAR 13 2020

SUBJECT: Federal Consistency Determination; Proposed Rule for Western and Central Pacific Fisheries for Highly Migratory Species; Requirements to Safeguard Fishery Observers (RIN 0648-BG66)

Dear Mr. Reyes:

The National Marine Fisheries Service (NMFS) is undertaking a rulemaking to carry out the obligations of the United States under the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (Convention). The proposed action would establish requirements to safeguard fishery observers and establish prior notification procedures for obtaining observers.

Pursuant to the Coastal Zone Management Act of 1972, as amended (CZMA; 16 U.S.C. 1451 et seq.), and the National Oceanic and Atmospheric Administration's regulations implementing the federal consistency requirements of the CZMA at 15 CFR Part 930, NMFS has determined that the rule is consistent to the maximum extent practicable with the enforceable policies of Guam's Coastal Zone Management Program.

Enclosed please find a consistency determination that includes the information required by 15 CFR 930.39. I am writing to request your concurrence with our determination. In accordance with 15 CFR 930.41, NOAA may presume concurrence if we do not receive your response within 60 days of the State's receipt of our consistency determination. Please contact Valerie Post (808-725-5034) if you have any questions or need any additional information.

Sincerely,

Michael D. Tosatto
Regional Administrator

Enclosure

cc: Julian Janssen, Guam Coastal Management Program
Frederick Tucher, Chief, Pacific Islands Sec., NOAA Office of General Counsel



Coastal Zone Management Act Federal Consistency Determination

Agency: National Marine Fisheries Service (NMFS)

Relevant Authorities: The Coastal Zone Management Act of 1972, as amended (CZMA; 16 U.S.C. 1451 *et seq.*); CZMA Federal Consistency Regulations (15 CFR Part 930)

Determination: Consistent to the maximum extent practicable with the enforceable policies of Guam's Coastal Zone Management Program

Description of proposed activity: NMFS plans to issue a rule to implement decisions of the Commission for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (WCPFC or Commission) for the United States. The rule would be issued under the authority of the Western and Central Pacific Fisheries Convention Implementation Act (WCPFC Implementation Act; 16 U.S.C. 6901 *et seq.*).

The Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (Convention) governs fisheries for highly migratory species (HMS). The area of application of the Convention is roughly the entire western and central Pacific Ocean (WCPO).¹ The Commission is the body charged with making the decisions needed to implement the provisions of the Convention. As a Contracting Party to the Convention, the United States is a member of the Commission.

The activity would implement certain provisions of the Commission's "Conservation and Management Measure for the protection of WCPFC Regional Observer Programme Observers" (CMM 2017-03), adopted in December 2017, and also establish prior notification procedures for obtaining observers.

The proposed rule would require vessel owners or operators to notify a contact as designated by NMFS in the event of serious illness, assault, intimidation, threats, interference, or harassment of a WCPFC observer. The proposed rule would also require (1) U.S. purse seine owners and operators to provide prior notice before departure when requesting a WCPFC observer and (2) U.S. commercial fishing vessels fishing for highly migratory species to provide prior notice before departure when requesting a cross-endorsed observer.²

Expected coastal effects: The proposed rule is expected to have negligible if any direct or indirect effects on the coastal zone of Guam. Although the notification requirement for observer safety purposes may affect the fishing patterns and practices of the U.S. fleets operating in the WCPO (e.g., if vessels stop fishing and return to the closest port), NMFS expects these events to happen rarely and to have negligible impacts on the coastal zone of Guam. The other requirements that would impose prior notification requirements for U.S. purse seine vessels

¹ The exact boundaries of the Convention Area are provided in the Convention, which is available, along with a map of the Convention Area, at <http://www.wcpfc.int/key-documents/convention-text>

² A cross-endorsed observer is an observer who meets the observer requirements of both the WCPFC and the Inter-American Tropical Tuna Commission (IATTC) pursuant to a Memorandum of Cooperation between the Commission and the IATTC.

requesting a WCPFC observer or U.S commercial vessels fishing for highly migratory species and requesting a cross-endorsed observer are not expected to affect the fishing behavior of any particular vessel or of any fleet as a whole.

Consistency evaluation: The policies and objectives of Guam's Coastal Zone Management Program, as set forth in Guam Land-Use Policies, Exec. Order 78-37 (Nov. 15, 1978), promote the sustainable development and use of marine and coastal resources. As discussed above, the activity taken by NMFS would result in negligible direct or indirect effects to Guam's coastal zone management area. Thus, NMFS has determined that the activity would be consistent to the maximum extent practicable with the enforceable policies and objectives of Guam's coastal zone management program.